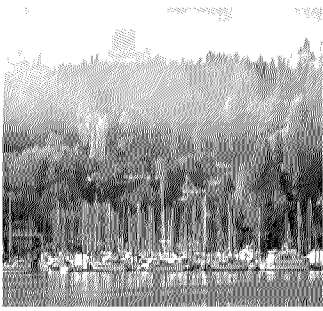


Water Law news News for October 1, 2010
Mary Grady to: Steven Neugeboren
Bcc: Mindy Kairis

10/01/2010 09:29 AM

From: Mary Grady/DC/USEPA/US
To: Steven Neugeboren/DC/USEPA/US@EPA,
Bcc: Mindy Kairis/DC/USEPA/US



Water Law News for October 1, 2010

BNA, Inc.

Daily Environment

REPORT

HIGHLIGHTS

Chesapeake Bay

Federal Plan for Bay Restoration in 2011 Couples Millions in Aid, Enforcement Powers

Six federal agencies led by the Environmental Protection Agency Sept. 30 unveiled a \$491 million plan for Chesapeake Bay restoration in fiscal 2011, promising that if Congress approves the president's budget unprecedented financial...

Drilling

Salazar Announces New Offshore Rules, But Leaves Moratorium in Place for Now

Interior Secretary Ken Salazar unveiled two new rules Sept. 30 for the offshore oil and gas industry with new requirements to improve drilling operations and increase worker safety....

Drinking Water

Pennsylvania to Provide Water to Township, Seek Recovery From Gas Drilling Company

PHILADELPHIA—The Pennsylvania Department of Environmental Protection (DEP) will proceed with an \$11.8 million plan to extend a public water line to replace private water wells in northeastern Pennsylvania's Dimock Township...

Mining

Science Advisers See Strengths, Weaknesses In EPA Gauges of Mountaintop Mine Impacts

A panel of scientists released two draft reports Sept. 30 that praise the Environmental Protection Agency for much good work in analyzing the environmental impacts of mountaintop coal mining, but caution that the agency needs a more diverse...

Oil Spills

Admiral Thad Allen Says Federal Powers Should Be Clear, Automatic in Future Spills

NEW ORLEANS—Retired Coast Guard Adm. Thad Allen Sept. 30 said he plans to present a report to President Obama recommending that certain emergency federal powers take force automatically in the event of another incident similar to the...

Oil Spills

Coast Guard Reauthorization Bill Passed With Provisions for Oil Spill Prevention

Congress completed passage of a U.S. Coast Guard reauthorization bill Sept. 30 with measures to reduce the risk of oil spills through stronger financial obligations for tankers and other ships carrying oil and requirements for more regulatory...

Water Pollution

State Groups to Team Up on Energy, Water Work

Two associations of state officials, one focused on energy regulation and one on water regulation, have entered into a memorandum of understanding that sets the stage for joint projects. The Interstate Oil and Gas Compact Commission and the...

Water Resources

Schwarzenegger Signs Legislation Establishing Salton Sea Restoration Council

LOS ANGELES—California Gov. Arnold Schwarzenegger Sept. 27 signed a bill establishing a Salton Sea Restoration Council to oversee efforts at saving the troubled inland lake....



EPA Request For Panel's Workforce Study Falls Short Of Unions' Goals

EPA union officials say the agency's request to have its National Advisory Council for Environmental Policy & Technology (NACEPT) study workforce issues facing EPA does not address what the unions say are major staffing shortfalls the agency needs to deal with by conducting a detailed workload and workforce analysis.

In Loss For Industry, EPA Decides To Regulate Perchlorate Under SDWA

EPA has decided to regulate the rocket fuel ingredient perchlorate under the Safe Drinking Water Act (SDWA), reversing a controversial Bush administration decision not to regulate after finding that setting a drinking water standard would provide a meaningful opportunity to reduce risks posed by the ubiquitous chemical, according to a federal source.

THE INSIDE STORY

an environmental policy blog

Seeking Oversight On EPA Job Impacts

House Republicans are urging the Energy & Commerce Committee's Democratic leadership to hold an oversight hearing into the potential negative job impacts of EPA and other agencies' regulations, the latest effort by the GOP to . . .

Rockefeller: Vote Unlikely On Blocking EPA GHG Rules

Sen. John Rockefeller (D-WV) has conceded that his proposal to block EPA regulation of greenhouse gases (GHGs) likely will not pass even if it comes up during a lame-duck session. Rockefeller, whose legislation would block EPA . . .

Congress Continues CFATS

Congress' just-passed continuing resolution funding EPA and other agencies at existing levels through December includes a temporary extension of the Department of Homeland Security's (DHS) . . .



<http://www.greenwire.com>

WATER: Green infrastructure touted amid new regulatory, legislative push (10/01/2010)

Paul Quinlan, E&E reporter

Proponents of green infrastructure touted its water-cleaning, job-creating and money-saving benefits on Capitol Hill yesterday as U.S. EPA and lawmakers push to promote its use.

In yesterday's hearing, advocates called for more aggressive investment in roof gardens, pervious pavements and vegetative buffer zones instead of gutters, pipes and old fashioned treatment systems that are prone to overflows and tend to foul nearby waterways.

The arguments go beyond clean waterways and extend to the economic and aesthetic benefits. More projects not only mean more jobs but also better-looking streets, neighborhoods and developments, which in turn add to quality of life, attract residents and encourage commerce, say proponents.

Those benefits are what is behind the growing demand for green projects, according to Rep. Donna Edwards (D-Md.), who chaired the meeting of the Transportation and Infrastructure Committee's Water Resources and Environment Subcommittee. As evidence of the demand, she cited the trend in spending of federal stimulus dollars: Even though states were required to spend 20 percent of their stimulus funds on green projects, actual spending on such projects amounted to 30 percent, Edwards said.

"These numbers indicate that there is a growing demand for programmatic and financial support for green infrastructure projects, especially related to clean water and drinking water infrastructure," Edwards said.

Edwards introduced legislation last December (**H.R. 4202**) to fund a green infrastructure program at U.S. EPA and between three and five research and study centers.

Rep. Allyson Schwartz (D-Pa.) testified that green infrastructure can meet "multiple goals" in addition to water quality improvements, such as attracting businesses, increasing property values and improving people's perceptions about their community.

"Green infrastructure not only results in cleaner, safer water quality but also can revitalize depressed economic areas and contribute to economic growth," Schwartz said. "It is a sensible and wise investment."

Schwartz' own bill, introduced last April, (**H.R. 2222**) would authorize \$180 million over five years for the federal government to partner with green nonprofits to bring green infrastructure to 80 municipal governments, with special emphasis on communities in need of economic revitalization. Neither of the House bills has advanced out of subcommittee.

Meanwhile, U.S. EPA is working on new stormwater regulations designed to reduce discharges. In a recently released clean water strategy document, under the heading "Key EPA Actions," EPA pledges to "expand municipal stormwater permitting coverage to currently unregulated areas and establish performance standards for stormwater discharges" to reduce pollution discharges, "including through the use of green infrastructure techniques."

"Stormwater runoff is preventable," said Piper Crowell, clean water advocate for Environment America. "And when we prevent it by developing green infrastructure, we are also creating jobs, making our cities more beautiful and helping our local economy. It's not only the smart choice for cleaning up our waterways, but the smart choice for our economy."

OFFSHORE DRILLING: Moratorium's end is nearing -- White House (09/30/2010)

Patrick Reis, E&E reporter

The Obama administration is closer to lifting its moratorium on deepwater drilling after announcing new rules on offshore oil and gas safety today, White House press secretary Robert Gibbs said this afternoon.

Interior Secretary Ken Salazar today announced new environmental and worker safety requirements for offshore drilling and promised more in the weeks to come but did not set a date for when deepwater drilling could resume (*Greenwire* , Sept. 30).

The rules "likely" move the moratorium closer to being lifted, Gibbs said. "There are a series of technological and safety reforms that this administration is very serious about implementing that need to be implemented and secured prior to the lifting of that moratorium," he added.

The interim drilling rules are one of two steps that administration officials have said need to be complete before the moratorium could be lifted. The other is the completion of a report on the state of offshore drilling from Michael Bromwich, director of Interior's Bureau of Offshore Energy Management, Regulation and Enforcement.

Gibbs said the report has already been submitted to Salazar. Bromwich said in a television interview that Salazar would have it later today or tomorrow.

Oil and gas industry advocates continue to push the Obama administration to lift the moratorium immediately, saying they are disappointed Salazar did not do so while announcing the new rules today.

"While the Gulf Coast region continues to fight to get back on its feet economically, it's unfortunate that this administration is fighting just as tirelessly to impede that progress by maintaining its deepwater ban," said Bruce Vincent, chairman of the Independent Petroleum Associates of America.

But Gibbs defended the administration's efforts to facilitate offshore energy development.

"The president does not oppose the offshore exploration for oil," Gibbs said. "But the president just believes, after what we witnessed with BP, that we need to do this in a way that is technologically safe, technologically proven."

Environmental groups are defending the moratorium and praising the new offshore drilling rules.

"The new protections add a needed measure of transparency, oversight and certainty to the drilling process," said Natural Resources Defense Council executive director Peter Lehner.

Kieran Suckling, executive director of the Center for Biological Diversity, said today that the rules still lack necessary protections for wildlife.

"The safety measures announced today will certainly do some good, but we can't allow offshore drilling to return to business as usual without doing much, much more to ensure the safety of wildlife and the environment," Suckling said.

OFFSHORE DRILLING: Interior issues new rules, holds firm on moratorium (09/30/2010)

Katie Howell and Patrick Reis, E&E reporters

This story was updated at 1:10 p.m. EDT.

The Obama administration today imposed new offshore drilling safety regulations, a move needed to end its moratorium on deepwater exploratory drilling, but it gave no indication of when that ban would be lifted.

Instead, Interior Secretary Ken Salazar promised the industry would face a "dynamic regulatory environment" in the weeks and months to come, as his department refines and further tightens its safety and environmental standards for offshore drilling.

"These new rules and the aggressive reform agenda we have undertaken are raising the bar for the oil and gas industry's safety and environmental practices on the outer continental shelf," Salazar said during a speech at the Woodrow Wilson International Center for Scholars in Washington, D.C. "Under these new rules, operators will need to comply with tougher requirements for everything from well design and cementing practices to blowout preventers and employee training."

The new rules come in the wake of the blowout of a BP PLC well in the Gulf of Mexico in April that sparked the largest oil spill in U.S. history. Following the spill, Interior cracked down on drilling safety and regulation and imposed a temporary freeze on deepwater drilling operations. Today's rules will guide drillers on how they can operate after the moratorium ends.

The department had already spelled out some of the new regulatory conditions in a safety report issued in May and in two notices to lessees in June. The new regulations add to that suite of requirements, making mandatory several of the recommendations outlined in the May report.

The **drilling safety rule** details the proper cementing, casing and drilling fluid procedures that drillers should use in order to maintain wellbore integrity while drilling. The new rule also strengthens oversight of equipment, like blowout preventers, used to shut off the flow of oil and gas.

The **workplace safety rule** requires operators to have a comprehensive safety and environmental impact program in place to reduce organizational errors that could cause accidents or spills. The rule makes mandatory a practice recommended by the American Petroleum Institute (API) to its members. That voluntary program will help companies identify, address and manage safety hazards and environmental impacts.

Erik Milito, API's upstream director, said Interior's rules should balance safety improvements and a framework for government approval for exploration and development projects.

"The rule must serve the interests of improved safety and energy development," Milito said in a statement. "There has to be a clear, practical and certain process for project review that will protect the environment. We cannot have an approval process that creates

unpredictable delays that could place at risk the flow of domestic energy in our country."

And Milito urged the administration to lift its moratorium on deepwater drilling.

"Every day the moratorium remains exacts an economic penalty on the people of the Gulf and on our nation. The costs are already too high. We continue to urge the government to end it as soon as possible," Milito said.

Salazar defends ban

Salazar had said the long-awaited rules were necessary before he would ease off the drilling ban. Still, he gave no indication of when the freeze would end during his remarks today.

"There will always be risks in offshore drilling," Salazar said. "We will only lift the moratorium when I as secretary of the Interior am confident that we have significantly lessened those risks."

Salazar continued to defend his decision to freeze offshore drilling following the Deepwater Horizon explosion, saying the accident and ensuing spill had exposed the oil and gas industry's lack of safety standards and preparedness to deal with spills.

He also took aim at the moratorium's many critics -- including industry organizations and oil state legislators -- who have called the moratorium a job-killer and fought to lift it.

"The same people who have fought to weaken regulation and oversight of the oil and gas industry have protested from the start," he said. "They wanted to go back to business as usual and forget that anything happened this summer."

Salazar also defended his coming decision to lift the ban, saying it would only be done after he was confident that industry met a "gold standard" for worker and environmental protection.

"When we do lift the suspension, some will say it is too soon, they will say there are still risks involved," the secretary said. "We need that oil and gas to power our cars, our homes and our industry, but we can make -- and are making -- drilling safer."

'Turning point' for energy policy?

He added that the oil spill should be a "turning point" toward a national push to develop wind, solar, geothermal and other renewable energy sources. The administration will announce permitting for the world's largest solar developments in the next few weeks or months, Salazar said.

"Our energy policy, frankly, has failed us time and time again for many decades," Salazar said. "We rely too much on foreign oil. We are falling behind India and China in the race for clean energy technologies and clean energy jobs, and our oceans, coasts and climate are at risk. We need to change the game."

Salazar also touted the Obama administration's efforts thus far to improve drilling enforcement. The administration has committed additional resources to oversight and reorganized the Bureau of Ocean Energy Management, Regulation and Enforcement, Interior's offshore drilling oversight agency that was previously known as the Minerals Management Service.

Tomorrow, Salazar will be in Colorado to formally establish Interior's Office of Natural Resources Revenue, which will collect royalties from onshore and offshore energy development. Salazar said the agency was necessary to eliminate BOEMRE's conflicting mandate of regulating offshore energy and collecting revenue from it.

Reactions

Environmentalists say they are encouraged by the safety crackdown.

David Pettit, a senior attorney with the Natural Resources Defense Council, praised the rules as an "extremely positive step forward."

The drilling safety rule addresses some of the mistakes BP made on the Deepwater Horizon platform by requiring third-party verification of platforms casing and cementing, Pettit said.

The workplace safety rule's requirement for an environmental management system has been a longtime priority of the environmental advocates, but industry groups have argued the systems should be voluntary, he said.

"That discussion is over, but the secretary just mandated it," Pettit said.

Adam Kolton, senior director of congressional and federal affairs at the National Wildlife Federation, agreed that the rules are a positive step forward.

"Secretary Salazar has laid out the right vision -- to restore the Gulf, to strengthen oil and gas regulations in ways that better protect workers and the environment and most critically to advance a clean energy future," Kolton said in a statement.

Kolton said the group is pleased Interior has not lifted the moratorium yet.

"As we've seen in the Gulf oil disaster, the stakes are too great to proceed hastily," he said.

But Rep. Doc Hastings (R-Wash.), ranking member of the House Natural Resources Committee, does not agree.

"The Interior Department today announced new rules on drilling but still refuses to say when the arbitrary, non-science-based

moratorium will be lifted," Hastings said in a statement. "When will the administration actually begin issuing permits? When will people in the Gulf be allowed to return to work?"

Hastings urged the administration to make the rules "clear, concise, enforceable, and, most importantly, enable energy production to immediately resume in the Gulf."

"Otherwise a de facto moratorium could remain in place for years that will cause more American job losses and more companies moving operations overseas," Hastings added.

WETLANDS: Judge sides with power plant in Everglades case (09/30/2010)

The U.S. Army Corps of Engineers' policy change to stop development on 53 million acres of former croplands in the Everglades wetlands was halted Tuesday when a Miami federal judge put a temporary injunction on the plans.

U.S. District Judge K. Michael Moore's explanation was that the Army Corps did not follow the proper process for changing its regulations.

The Clean Water Act permits the Army Corps to regulate navigable waters but not prior croplands because they were lawfully "converted" before the act. The Army Corps announced in January 2009 that it would regulate the lands and did not provide notice or a public comment period, saying it was not required.

New Hope Power Co. and Okeelanta Corp., subsidiaries of Florida Crystals Corp., brought the lawsuit against the Army Corps. New Hope plans a new landfill in the wetlands to dispose of ash from its Okeelanta power generation plant. Sugar companies, developers and the American Farm Bureau Federation are also suing the Army Corps for the policy change.

"This is a great victory for Florida against the federal government's continued attempts to impose burdensome barriers to economic development in these trying times," said Florida Crystals Vice President Gaston Cantens in a news release (Brinkmann/Miller, *South Florida Business Journal* , Sept. 29). -- AP

WATER POLLUTION: EPA tells Ill. to fix permitting system for mega-farms (09/30/2010)

Illinois is failing to stop water pollution from confined-animal farms and has one month to fix its permitting and enforcement programs, U.S. EPA said yesterday.

After a yearlong investigation, EPA found that the Illinois EPA overlooked problems with confined-animal feeding operations, or CAFOs. The cattle, hog and chicken farms generate enough manure to equal small towns, and many of them do not have permits limiting water pollution, EPA said.

The state has not responded to citizen complaints about odor and concerns about waste contaminating water sources. It also did not enforce action on more than 60 percent of cases involving violations of federal and state environmental laws, EPA said.

EPA's report ordered Illinois to create an inventory of CAFOs, revamp its inspection program and develop a procedure for investigating citizen complaints.

If it does not do so within a month, EPA will take over enforcement of environmental laws, the agency said (Michael Hawthorne, *Chicago Tribune* , Sept. 29). -- GV

Gulf Spill

12. RESTORATION:

Second phase of damage assessment begins

13. LITIGATION:

3 Mexican states sue BP, others over oil spill

14. POLITICS:

Governors, BP will control \$500M research fund

CALIFORNIA: This summer was one of the cleanest ever for California beaches and marked the fourth straight year of excellent water quality, according to a report released yesterday by Heal the Bay. The environmental group said 92 percent of beaches tested received either A or B grades during high-traffic beach season. The results come as the state is considering shutting down a \$1-million-a-year beach testing program next year, which would stop monitoring and public alerts (Tony Barboza, *Los Angeles Times* , Sept. 30).

OREGON: Private timber owners and loggers could face more stringent environmental regulations to protect streams under a court settlement that requires a state agency to develop new rules. Federal agencies have identified the state's weaknesses in logging regulations but have failed to force changes. The U.S. District Court settlement will require stricter rules to protect streamside trees, prevent landslides and cut erosion and run-off from logging roads (Scott Learn, *Portland Oregonian* , Sept. 28).

ClimateWire -- Fri., October 1, 2010 -- **Read the full edition**

1. NATIONS: Denmark pioneers a 'road map' to end use of fossil fuels

COPENHAGEN, Denmark -- Denmark could become one of the first countries in the world to completely stop using oil, gas and coal by 2050 if it boosts wind production by as much as six times and hikes taxes on fossil fuels tenfold, a government-appointed commission said. Denmark should increase its wind power capacity to between 10,000 and 18,500 megawatts in 2050 -- most of it by installing offshore turbines -- from the current capacity of slightly more than 3,000 megawatts, the Danish Commission on Climate Change Policy said in its report. At the same time, the country should impose a tax on fossil fuels that would rise from 5 Danish crowns per gigajoule next year to 50 crowns by 2030.

2. POLITICS: Emanuel's replacement might calm the climate debate

3. GRID: Fight heats up over FERC's transmission policy plans

4. CALIFORNIA: Is Prop 23 a 'nuclear bomb' for climate rules nationwide?

5. TECHNOLOGY: DOE smart grid grants appear safe from stimulus clawback in a GOP House

6. ENERGY EFFICIENCY: U.S. homes haven't improved in 30 years

7. RENEWABLE ENERGY: U.K. clean energy output falls for 2nd time this year

8. COAL: European Commission gives Spain OK to subsidize coal for 4 years

9. WIND POWER: Danish company to move turbine ladder operation to Wis.